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MANAGEMENT SERVICES*Richard Gehrman, Director*

CITY OF SAINT PAUL

*James Scheibel, Mayor*OFFICE OF CABLE
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August 4, 1993

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AUG - 4 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Re: MM Docket 92-266/ Reconsideration of the Report and
Order and Further Notice of Proposed Rulemaking in the
Matter of Implementation of Sections of the Cable
Television Consumer Protection and Competition Act of
1992; Rate Regulation.

Dear Sir:

Attached are nine copies of a letter responding to certain claims made by Continental
Cablevision, Inc. in an Opposition of Petitions for Reconsideration filed in the above-
captioned docket. We appreciate your consideration of the letter. If there are any
questions, please contact me.

Sincerely,

Janet Wigfield
Cable Communications Officer

No. of Copies rec'd
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**CITY OF SAINT PAUL***James Scheibel, Mayor*

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RECEIVED**AUG - 4 1993****FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

August 4, 1993

The Honorable James H. Quello
Chairman
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

Re: MM Docket 92-266, Reconsideration of the Report and
Order and Further Notice of Proposed Rulemaking in the
Matter of Implementation of Sections of the Cable
Television Consumer Protection and Competition Act of
1992; Rate Regulation.

Dear Chairman Quello:

We have reviewed a copy of Continental Cablevision, Inc.'s Opposition to Petitions for Reconsideration in MM Docket 92-266. As we understand it, Continental is claiming that cable operators should be able to raise rates to subscribers to pass through costs associated with franchise requirements. Continental tries to convince the Commission that this result is reasonable by arguing that it has no control over these costs and that these costs are unreasonable additions to its cost of doing business. Continental cites a recent settlement with St. Paul as an example of the problem. We are writing you because Continental's Opposition is founded on gross misstatements about the St. Paul settlement.

Continental is referring to a dispute that dated back to May, 1989, when the City of St. Paul initiated a Five Year Performance Review of Continental. As a result of the review, the City found that Continental had substantially failed to comply with its franchise. The parties sought, unsuccessfully, to resolve the compliance issues through negotiation. In April 1992, Continental filed an application to modify the franchise, and the City of St. Paul issued a Violations Notice to Continental. Continental and the City finally reached a settlement in September 1992, after lengthy negotiations.

Continental's filing claims that it was "forced, through a baseless claim of breach . . ." to pay an additional \$5.1 million through that settlement to St. Paul to preserve its franchise. In other words, Continental claims (1) the settlement forced it to make significant, unexpected new outlays; (2) it was forced to make these payments to resolve unfounded claims; (3) it accepted the settlement unwillingly. This is not accurate.

Far from imposing new obligations upon Continental, the settlement actually relieved Continental of nearly \$16 million in franchise obligations. Among other things, Continental was relieved of \$2.8 million in access and local origination requirements. Its franchise obligation to upgrade the system which would have cost about \$13 million, was deferred. Other cost savings included relief of \$168,900 for promises related to the institutional network, and relief from the interest owed for several years. Some franchise obligations were modified: before the settlement Continental was making \$540,000 annual payments for and in support of access and local origination programming; after the settlement, local origination obligations were eliminated. Continental is required to continue to make \$540,000 payments in support of local programming, but now all the payments go to an independent access corporation. Other franchise obligations requiring Continental to provide public benefits were altered, but no new obligations were imposed. As a result, Continental is paying almost the same amount to provide public benefits and support local programming now compared to the amount it was paying before the settlement. The company's claim that it is shouldering \$5.1 million in new payments is not accurate.

Indeed, to the extent Continental is paying more now than it was in 1992, those payments were fully contemplated by the franchise. Continental is merely being required to comply with franchise obligations which it agreed to satisfy years ago. This is hardly objectionable and cannot justify subscriber rate increases, particularly in light of the real savings to the company. Using Continental's own calculation method, the settlement amounts to a cost savings to the Company of about \$4.50 per month per subscriber. Rather than being permitted to increase rates as a result of the settlement, Continental, and companies in similar situations, should be passing through cost savings to subscribers.

Continental cannot seriously claim that it was forced to accept the settlement to resolve unfounded claims. The fact that Continental filed a petition to modify the franchise indicates that Continental understood it had franchise obligations that it was not meeting. Continental had an option under the Cable Act to pursue that modification petition rather than settle.

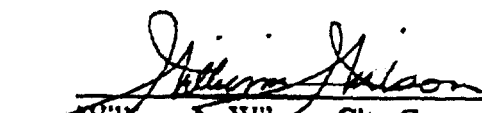
It chose not to pursue that option, but not (as it claims in its filing) because of potential litigation costs. The attached public statement by Randall Coleman, vice president and district manager of Continental, thanks the City for the "many hours" it spent in the "arduous process" of resolving the differences between the parties.

According to Coleman, "a fair amount of 'give and take' was necessary to reach agreement. We think the final product is a fair one . . ." Thus, the shape of the final settlement was well within Continental's control, and provided substantial benefits to Continental.

Finally, Continental fails to inform the Commission of what may be the most important fact about basic rates in St. Paul: since 1991, basic rates have increased almost 500 percent with no substantial improvements in service. Rates for basic and satellite service combined increased about 19 percent between 1991 and 1993. This is not a case where Continental is entitled to be paid more.

The cable industry has a history of creating "franchising horror stories" in an effort to justify limiting needed regulation. If Continental's pleading is an example, the Commission needs to approach these stories with extreme skepticism. In our case, we devoted hundreds of staff hours to negotiate with a cable company, and to devise a final settlement that modified and limited franchise obligations in a way that everyone agreed, at the time, was in the best interests of the community. It would be ironic indeed if the Commission now required subscribers to pay an added price for reducing Continental's obligations to St. Paul.

Sincerely,


James Scheibel, Mayor
William L. Wilson, City Council President

Attachments:

September 8, 1992

Council President Wilson, Chairman Thune, members of the city council, my name is Randall Coleman. I am vice president and district manager for Continental Cablevision of St. Paul, 214 East Fourth Street.

My remarks are brief. I would first like to thank each you and the city's staff for the many hours spent on this issue and the commitment to finding a resolution to our outstanding differences. This was a process that began over three years ago and has been the focus of numerous public meetings, reports and legal documents. Over the last six months, city staff and ourselves have been engaged in hours and hours of negotiation sessions. These meetings have produced an agreement in principle and subsequent ordinance modifications which I hope meets with your final approval.

This has been an arduous process which, hopefully will soon culminate in an affirmative vote by the council. The cost to each of us, were we not able to reach a settlement, would surely be in the hundreds of thousands of dollars.

In reaching an agreement and in bringing this process to a close, we will be accomplishing positive change, just as many cities and cable operators have done over the last decade. While the cable ordinance contains provision for change, no one could have

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anticipated exactly what kind of changes would be necessary in 1983, when cable bids were submitted in St. Paul. In 1983, the future of cable communications in this country was unknown. Cable was in a state of rapid development. No one could have predicted what would work and what would not, just as no one could have predicted what the level of cable subscriptions would be in St. Paul or what a tremendous impact the home VCR would have on the pay TV industry. Nor could anyone predict the failure of interactive services like opinion polling and home security and a range of other services.

Over the last nine years much has changed. The cable industry has continued to grow in most parts of the country, yet in America's urban centers cable has struggled to reach penetration levels barely exceeding 40%. While cable technology has advanced in many areas and continues to do so, poised well for the future, acceptance of our product in major urban centers continues to lag seriously behind the rest of the country, another fact no one could have predicted in 1983.

Here in St. Paul, we have one of the most technically sophisticated cable systems in the country. From a programming perspective, we have a system that ranks in the top 5%, and we have added more than 15 programming services since our system began operation in 1985. We have also done an exemplary job of creating award winning local programming and have just been selected as the winner of the 1992 Customer is Key Award, the industry's highest

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honor in customer service, yet the marketplace is yet to embrace cable on a broad scale.

We invite comparison to any business in the city of comparable size regarding the depth of benefits the city and its citizens have received from Continental Cablevision. We have produced thousands of hours of local programming, giving exposure to organizations and individuals who would otherwise never get it. We have a staff of 160 working in downtown and contributing to the Lowertown economy. We have worked with hundreds of local organizations and have donated tens of thousands of dollars to local charities. In fact, this week, ourselves and HBO are sending a young girl from the St. Paul Boys and Girls club to the Michael Jackson concert in Paris. The kinds of community involvement and the depth of the involvement we have in St. Paul life is unsurpassed by any business of similar size, and to date we have paid the City of St. Paul nearly \$5,000,000 in franchise fees.

We have worked extremely hard at operating a cable system you and we could be proud of. Not generating complaints at City Hall, being responsive to customers' needs and trying to crack this market have been our highest priorities.

While we now receive compliments from our customer daily, we still have to work harder to further municipal relationships. I hope and trust that this settlement is reflective of a new beginning in our relationship and old issues can finally be put to rest. What we

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have here is the opportunity to move forward in a logical, mutually agreeable fashion, and one that squarely puts these issues behind us, where they now belong.

The staff report before you clearly addresses all of the major concerns expressed by the city throughout this review process, and a fair amount of "give and take" was necessary to reach agreement. We think the final product is a fair one and one that will serve the city well. We urge you to ratify.

I thank you for your time and consideration and would welcome any questions.

September 8, 1992

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